

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 19, 2005

**D047634        People v. Walker**

The petition is denied.

**D045113        People v. Bates**

The judgment is affirmed. Nares, Acting P.J.; We Concur: Aaron, J., Irion, J.

**D045540        People v. Prescott**

The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P. J., Aaron, J.

**D045260        J. v. D.**

The order of the trial court is reversed insofar as it concludes that it had no authority to award attorney fees to Catherine. The case is remanded, and the trial court is directed to consider whether or not to grant Catherine's request for attorney fees for the costs of litigating the OSC regarding custody and support. The parties are to bear their own costs on appeal. Aaron, J.; We Concur: Huffman, Acting P.J.; Nares, J.  
CERTIFIED FOR PUBLICATION.

**D047438        Elwood-Garza v. City of San Diego et al.**

Pursuant to California Rules of Court, rule 8, the appeal filed October 28, 2005 is dismissed for appellant's failure to timely designate the record.

**D045035        Carmel Valley, LLC v. RFS Partnership, L.P. et al.**

The request for publication of the opinion is denied.

**D045395        People v. Welford**

The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., Irion, J.

**D047695        Kitmitto v. Superior Court of San Diego County/Kitmitto**

The petition is denied.

**D047381        In re Harris on Habeas Corpus**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 20, 2005

**D047134        S.D. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petitions are denied. Huffman, J.; We Concur: Benke, Acting P.J., McIntyre, J.

**D047290        In re Abelar on Habeas Corpus**

The petition is denied.

**D047017        In re Matthew B., a Juvenile**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D045699        Bates v. Malvestuto**

Judgment is affirmed. Malvestuto shall pay Bates's costs on appeal. Haller, J.; We Concur: Huffman, J., McDonald, J.

**D045520        In re Carolyn Holmer Trust**

The judgment of dismissal is affirmed. Costs to respondents. Huffman, J.; We Concur: McConnell, P.J., Aaron, J.

**D046611        In re Adoption of Ryle R. et al, Minors**

The judgments are affirmed. Nares, Acting P.J.; We Concur: Haller, J., Irion, J.

**D046061        Lamprides v. State of California Department of General Services/22nd District Agricultural Association**

The judgment is affirmed. Irion, J.; We Concur: Benke, Acting P.J., Aaron, J.

**D047467        Hollis et al. v. Superior Court of San Diego County/Rothstein et al.**

The petition is denied.

**D047698        Ray v. Superior Court of San Diego County/San Diego State University et al.**

The petition is denied.

**D047206        Guishard et al. v. Day**

Appellants' motion to vacate dismissal and reinstate appeal is GRANTED. Appellant must deposit costs with the clerk of superior court within 10 days from the date of this order.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 21, 2005

**D045938        Bonita Country Day School et al. v. Fleeson**

The order denying Fleeson's motion under section 425.16 is reversed, and the trial court is directed to enter a new order denying the motion as to plaintiffs' causes of action for conversion and assault and granting the motion as to their causes of action for defamation, intentional and negligent misrepresentation, interference with economic advantage, interference with contract and intentional infliction of emotional distress. Fleeson shall recover her attorney fees and costs on appeal. On remand, the trial court shall determine the amount of attorney fees and costs, upon Fleeson's proper application. O'Rourke, J.; We Concur: Nares, Acting P.J., McIntyre, J.

**D046307        In re Jesse R., a Juvenile**

The true finding as to the misdemeanor vandalism is reversed. In all other respects, the judgment is affirmed. Aaron, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D046313        Hoveida v. Scripps Health et al.**

The judgment is affirmed. Irion, J.; We Concur: McConnell, P.J., Benke, J.

**D046866        Advanced Marketing Services, Inc. v. Superior Court of San Diego County/Federal Insurance Company et al.**

Let a peremptory writ of mandate issue directing the superior court to (1) vacate its orders compelling AMS to comply with Federal's deposition subpoena and striking AMS's separate statement;(2) conduct further proceedings to determine whether all or part of the outstanding discovery is logically related to the issues in the underlying criminal and civil actions, such that further pursuit of that discovery would prejudice AMS's interest relating to those actions, and, if so, whether a confidentiality order will be adequate to protect AMS from any prejudice to its interests in the underlying criminal and civil actions; and (3) stay all discovery in the action until the court has determined these issues. The Stay issued on August 5, 2005 will be vacated when the opinion is final as to this court. Costs in the writ proceeding are awarded to AMS. McIntyre, J.; We Concur: McConnell, P.J., Irion, J.

**D045277        People v. Felix**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., McDonald, J.

**D045274        Citizens for Responsible Equitable Environmental Development v. City of San Diego Redevelopment Agency/Horton Land LLC et al.**

The petition for rehearing is denied.

**D046132        Hagen et al. v. La Jolla Bank F.S.B.**

Appellant Larry Hagen having failed to comply with this court's order of November 14, 2005, the appeal is dismissed as to Larry Hagen. Respondent's brief is due 30 days from the date of this order.

**D044348        Martinez et al. v. Fire Insurance Exchange**

The petitions for rehearing are denied. The opinion filed on December 2, 2005 is hereby modified. There is no change in judgment.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 22, 2005

**D046801          Robinson v. Toney**

The appeal is dismissed pursuant to California Rules of Court, rule 17(a).

**D043433          Lair et al. v. Vinci et al.**

The petition for rehearing is denied.

**D044603          People v. Castro**

Appellant's petition for rehearing is denied.

**D044655          People v. McMillan**

The judgment is affirmed. Benke J.; We Concur: McConnell, P.J., Aaron, J.

**D045796          Alexander v. Conaway et al.**

Judgment Affirmed. Appellant to bear respondents' costs on appeal. Haller, J.; We Concur: Huffman, Acting P.J., McDonald, J.

**D045686          Rulla v. State Farm Mutual Automobile Insurance Company**

Affirmed. Irion, J.; We Concur: Benke, Acting P.J., Aaron, J.

**D045018          People v. Fowler**

The judgment is affirmed. McConnell, P.J.; We Concur: McIntyre, J., Irion, J.

**D046037          People v. O'Connor**

The appeal is dismissed.<sup>3</sup>

---

<sup>3</sup> Appellant's claim that section 290 denies equal protection because those convicted of oral copulation of a minor but not those who have sexual intercourse with a minor are mandatorily subject to its registration requirement was rejected in *People v. Jones* (2002) 101 Cal.App.4th 220, 229. The issue is, however, before our Supreme Court in *People v. Alcala* S125898 and *People v. Hofsheier* S124636.

Benke, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

**D047548          Emily F. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Emily F. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case is DISMISSED.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
December 23, 2005

**D044348        Martinez et al. v. Fire Insurance Exchange**

The request for publication is denied.

**D046607        Paradise Valley Hospital et al. v. Workers' Compensation Appeals Board of the  
State of California/Sangcap**

The decision of the Board is annulled and the case is remanded to the Board with directions to enter a new order denying the claim. McIntyre, J.; We Concur: McConnell, P.J., Irion, J.

**D046556        Cooper v. Superior Court of San Diego County/People**

The petition for writ of mandate is denied. McIntyre, J.; We Concur: McConnell, P.J., Irion, J.